REMARKS

Claims 10-19 are rejected under 35 USC §112, second paragraph, for failing to include a percent sign after the "5" in step B of Claims 10 and 11. The applicants have inserted the word "percent" after "5" in step B of Claims 10 and 11, and this basis of rejection is now traversed.

Claims 1 and 4-22 are rejected under 35 USC §103(a) as obvious over Fajt (USP 5,525,353) in view of Lanter et al. (USP 6,171,632) in further view of Luxembourg patent 87750 and PCT application WO 98/47392. The Examiner argues that the instant invention is taught by Fajt except for the neutral detergent fiber and the use of a palatability agent. The Examiner cites the Lanter et al. reference for the same teaching and for its teaching of the process conditions. The Examiner looks to the Luxembourg patent for the teaching of the addition of fiber to a gel-containing animal feed, and to the PCT application for the addition of a taste-providing agent to a gel-containing animal feed. The Examiner then concludes that the addition of fiberous materials and a palatability agent to an animal feed gel would have been obvious to one of ordinary skill in the art. The applicants respectfully traverse.

As the Examiner well knows, to pick and choose among the individual elements of assorted prior art references to recreate the claimed invention is improper. Some teaching or suggestion on the face of the references is necessary to support their combination. *Smith Klein Diagnostics, Inc. v. Helen Laboratories Corp.*, 1958 F.2d 878, 8 USPQ 2d 1468 (Fed. Cir. 1988). The District Court of Maryland in *Laitram Corp. v. Cambridge Wire Cloth Co.* 226 USPQ 289 reduced this concept to a quaint analogy.

> "To illustrate this notion, you cannot claim that the existence of a unicorn should be obvious from taking a trip to the zoo and seeing a horse and a white rhinoceros in adjacent cells. It takes a spark of inventiveness to look at horse and then look at a white rhinoceros and then conceive of the idea of a white horse with a horn." Id. 293.

In essence, this is what the Examiner has done in the construction of the obvious rejection.

The principle purpose behind the invention of the instant application is to introduce sufficient fiber into the diet of an animal. Introducing fiber into the diet can be difficult because fiber tends to be both dry and unpalatable. The applicants have overcome these problems by incorporating the fiber into a high water-content gel, preferably with a palatability agent. This is not the purpose of the Fajt teaching. Fajt is interested in providing an aquatic animal feed produced at ambient-temperature that includes various nutrients and that floats. The final form of the feed is a pellet, not a gel. The gel is simply an intermediate product that is eventually converted into a pellet. As such, Fajt not only is addressing a different problem than that addressed by the present invention, but it also makes a different product.

Lanter et al., on the other hand, does teach the preparation of an animal feed gel but here again, the purpose is not to introduce fiber into the animal diet, but rather protein. The fact that Fajt and Lanter et al. teach the manufacturing of different products does not lend either one for combination with the other and in any event, neither one addresses the problem of the instant invention, i.e., introducing a relatively high level of fiber into an animal diet. In other words, combining Lanter et al. with Fajt does not produce a high water-content gel product with a relatively high fiber-added content.

The addition of the Luxembourg and/or PCT references do not bridge the difference between the present invention and the Fajt and Lanter et al. references. The primary purpose of

the Luxembourg reference is to prepare a food for use in aquaculture. As such, the food has a relatively high water content, and its primary purpose is to provide nutritional value to the animal. The presence of fiber (e.g., Claim 10) is to provide structural strengtheners to the food product, not to introduce fiber into the fish diet. One skilled in the art would not look to this reference for guidance in addressing the problem of the immediate invention, i.e., introducing relatively high levels of fiber into animals diet.

Similarly, the PCT reference does not address the problem of introducing fiber into an animal diet. Rather, the problem addressed by the PCT reference is delivering nutritional materials, animal immune system stimulants, animal appetite stimulants, animal color enhancers or animal therapeutic agents. The word "fiber" does not appear in the reference. Again, given the purpose of the instant invention, one skilled in the art would have little, if any, incentive to either modify this particular reference or combine it with any of the other cited references.

The Examiner is respectfully requested to reconsider this objection in view of these remarks, and then to withdraw it.

Claims 2 and 3 were not the subject of any rejection; and thus are assumed allowable. Accordingly, applicants have rewritten Claims 2 and 3 as new independent Claims 23 and 24 which the applicants assume are also allowable. The Examiner may charge Account No. 232053 for any fees that may be due for these extra claims.

The applicants have amended their claims to address the 35 USC §112, second paragraph, rejection, and they have shown the clear differences between the gels of their invention and the products taught in the cited art, either alone or in combination with one

another. Accordingly, the Examiner is requested to reconsider the rejection in view of the amended claims and these remarks, and the application to issuance.

Respectfully submitted,

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